

<b>OUTFITTERS &amp; GUIDES LICENSING BOARD</b>	<b>POLICY MANUAL</b>	<b>POLICY NUMBER:</b> 3005 - 2005	<b>PAGE NUMBER:</b> 1 of 3
		<b>SUBJECT:</b> Disciplinary Process	Adopted: 08/23/05 Revised: 08/19/05 Reformatted:08/19/05

## **1.00.00      POLICY OF THE AGENCY**

It is the policy of the Outfitters and Guides Licensing Board that the Agency complies with applicable state statutes regarding the disciplinary process.

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## **3.00.00      REFERENCES**

## **4.00.00      PROCEDURE**

### **4.01.00      Complaint and Investigation**

- 4.01.01 Any person who knows of an alleged violation by a licensed outfitter or guide may report the violation to the Board.
- 4.01.02 All complaints shall be received in writing and signed by the person making the complaint. Information that may not reach the level of a complaint but may contribute to a future or pending investigation will be received, documented and maintained for reference by the Enforcement Chief.
- 4.01.03 If a complaint or information is received that may reveal a violation of law or Board rule, an investigation shall be conducted to provide the Executive Director with the information necessary to decide whether there is probable cause to believe that a violation of law or Board rule has occurred.
- 4.01.04 If the investigation determines that the Board has no enforcement authority over the individual, then no further action will be taken. If the investigation determines that the Board has jurisdiction, the Executive Director shall review the results of the investigation to determine whether informal or formal administrative action is most appropriate.

### **4.02.00      Investigation Results Presented to the Executive Director**

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4.02.01 The results of the investigation are presented to the Executive for consideration. If the Executive Director believes there is probable cause that violation of law or rule has occurred, he/she may resolve the complaint by informal or formal administrative action. If the Executive Director finds there is not probable cause to establish a violation, no further action will be taken.

4.02.02 If informal administrative action is determined appropriate, the Executive Director may resolve the complaint by one of the following:

1. No action taken;
2. Caution letter;
3. Informal administrative complaint and hearing.

4.02.03 If the Executive Director finds an immediate threat to the public health, safety or welfare exists; he/she may proceed to summarily suspend the license pending the prompt initiation of a formal administrative action. If formal administrative action is determined appropriate, the Executive Director will forward the complaint and investigation to the Enforcement Attorney for further action.

#### 4.03.00 Prosecution

Once the case has been referred to the Enforcement Attorney for administrative action, there are four (4) options. The Enforcement Attorney, in cooperation with the Executive Director and Enforcement Chief may resolve the complaint by:

1. Prosecution declined;
2. Informal consent agreement;
3. Formal consent agreement;
4. Formal administrative complaint and hearing.

4.03.01 The Enforcement Attorney may recommend declining further action on the complaint. The Enforcement Attorney may base this determination on several factors including but not limited to culpability, strength of evidence, costs, etc.

4.03.02 The Enforcement Attorney may recommend resolving a case by an informal consent agreement. This would be accomplished prior to filing an Administrative Complaint and Notice of Hearing. The agreement would be presented to the Board for acceptance or rejection.

The Enforcement Attorney, after consultation with the Executive Director and Enforcement Chief, may file an administrative complaint and notice of hearing. After filing the administrative complaint and notice of hearing, the Enforcement Attorney may recommend resolving the case by a formal consent agreement.

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Pursuant to a formal consent agreement, the licensee will admit to one or more violations of the Outfitters and Guides Act and agreement may be reached upon the recommended discipline imposed by the Board. The Board may accept or reject the formal consent agreement and if it rejects the formal consent agreement, the case will proceed to administrative hearing.

The conditions of a consent agreement (informal or formal) may include a letter of reprimand, revocation, suspension, probation, fines of up to \$5,000.00 for each violation, and to recover investigative, hearing (formal only) and board costs and attorneys' fees.

#### 4.04.0 Board Members

4.04.01 OGLB staff completes the investigation and the Enforcement Attorney is responsible for the prosecution of a case. If a Board member participates in any part of the investigation of a case (such as performing a review on a file), that Board member cannot participate in any decision-making capacity on the case and should not discuss the details of the case with the complainant, the licensee, or other Board members.

4.04.02 In addition, to protect the due process rights of the licensee, any Board member who (1) is aware of substantive facts of a case before the evidence has been formally presented to the Board and (2) will ultimately participate in the decision making process on the case should disclose his awareness of the case and cannot discuss the specific non-hearing facts with the complainant, the licensee, the Enforcement Attorney, or other Board members.

4.04.03 The Board performs the adjudication of a case. The adjudicatory functions include: deciding whether to accept an informal or formal consent order or other settlement, deciding the merits of a complaint following presentation of evidence, and deciding the appropriate sanction, if any. When contacted by the public, a complainant, a licensee, or others concerning a complaint, the Board may explain the Board's general jurisdiction or authority, and direct the individual to appropriate staff personnel who can provide additional assistance.

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**Executive Director, IOGLB**

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**Date**